

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

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ALEATHIA DUVALL, individually and  
As Administratrix of the  
ESTATE OF CHRISTOPHER  
SOWELL, and  
HYSHONDA HINTON, as the  
Parent-Guardian of A.U.H-S.  
and C.L.H.S., minor children,

*Plaintiffs,*

v.

ADRIAN HUSTLER,  
ANTHONY BRITTON, JR.,  
JEREMY OLESIK,  
MICHAEL KANE, JR.,  
THOMAS THOMPSON,  
WALTON SCOTT,  
RONALD GREEN,  
RICHARD EDWARDS,  
TIMOTHY MOEBIUS,

*Defendants.*

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CIVIL ACTION  
NO. 18-cv-3278-CMR

**AMENDED COMPLAINT**

Plaintiffs, Aleathia Duvall, individually and as Administratrix of the Estate of Christopher Sowell, and Hyshonda Hinton, as parent-guardian of A.U.H-S. and C.L.H.S., by and through their undersigned counsel, Eric F. Spade, Esquire, hereby bring this Amended Complaint against Defendants Adrian Hustler; Anthony Britton, Jr.; Jeremy Olesik; Michael Kane, Jr.; Thomas Thompson; Walton Scott; Ronald Green; Richard Edwards; and Timothy Moebius, and in support thereof, avers as follows:

**I. JURISDICTION**

1. This action is brought pursuant to 42 U.S.C. § 1983 and the Fourth Amendment to the United States Constitution.

2. Jurisdiction is proper under 28 U.S.C. §§ 1331 and 1343(1), (3), (4) and the aforementioned statutory and constitutional provisions.

3. Jurisdiction over state law claims based on supplemental jurisdiction is proper under 28 U.S.C. § 1367.

4. The amount in controversy, exclusive of interest and costs, exceeds the sum of Seventy-Five Thousand (\$75,000.00) Dollars.

## **II. VENUE**

5. All the claims herein arose within the jurisdiction of the United States District Court for the Eastern District of Pennsylvania and involve Defendants who reside within the jurisdiction limits. Accordingly, venue is proper under 28 U.S.C. § 1391(b) and (c).

## **III. PARTIES**

6. Plaintiff Aleathia Duvall is an adult individual citizen of the State of New York and resident of the City of Ithica. She is the mother of Decedent Christopher Sowell.

7. Plaintiff Aleathia Duvall was appointed the Administratrix of the Estate of Christopher Duvall by the Philadelphia County Register for the Probate of Wills and Grant of Letters Testamentary and of Administration on August 9th, 2017. Attached as Exhibit A is a true and correct copy of the Letters of Administration appointing Duvall as Administratrix of the Estate, which by specific reference, is fully incorporated herein.

8. Plaintiff Hyshonda Hinton is the mother of A.U.H-S. and C.L.H.S., her minor children with Christopher Sowell. Hinton is asserting claims as parent-guardian on behalf of A.U.H-S. and C.L.H.S.

9. Defendant Adrian Hustler is an adult citizen and resident of the City of Philadelphia with a business address at the City of Philadelphia Police Department with a principal and central office of business located at Police Headquarters, 8<sup>th</sup> and Race Streets, Philadelphia, Pennsylvania. Defendant Adrian Hustler, badge number 5453, was a City of Philadelphia Police Officer assigned to the 18<sup>th</sup> Police District on or about September 28, 2016. He is being sued in both his individual and official capacities.

10. Defendant Anthony Britton, Jr., is an adult citizen and resident of the City of Philadelphia with a business address at the City of Philadelphia Police Department with a principal and central office of business located at Police Headquarters, 8<sup>th</sup> and Race Streets, Philadelphia, Pennsylvania. Defendant Anthony Britton, Jr., badge number 1556, was a City of Philadelphia Police Officer assigned to the 18<sup>th</sup> Police District on or about September 28, 2016. He is being sued in both his individual and official capacities.

11. Defendant Jeremy Olesik, is an adult citizen and resident of the City of Philadelphia with a business address at the City of Philadelphia Police Department with a principal and central office of business located at Police Headquarters, 8<sup>th</sup> and Race Streets, Philadelphia, Pennsylvania. Defendant Jeremy Olesik, badge number 7738, was a City of Philadelphia Police Officer

assigned to the 18<sup>th</sup> Police District on or about September 28, 2016. He is being sued in both his individual and official capacities.

12. Defendant Michael Kane, Jr., is an adult citizen and resident of the City of Philadelphia with a business address at the City of Philadelphia Police Department with a principal and central office of business located at Police Headquarters, 8<sup>th</sup> and Race Streets, Philadelphia, Pennsylvania. Defendant Michael Kane, Jr., badge number 4534, was a City of Philadelphia Police Officer assigned to the 18<sup>th</sup> Police District on or about September 28, 2016. He is being sued in both his individual and official capacities.

13. Defendant Thomas Thompson, is an adult citizen and resident of the City of Philadelphia with a business address at the City of Philadelphia Police Department with a principal and central office of business located at Police Headquarters, 8<sup>th</sup> and Race Streets, Philadelphia, Pennsylvania. Defendant Thomas Thompson was a City of Philadelphia Police Officer assigned to the 18<sup>th</sup> Police District on or about September 28, 2016. He is being sued in both his individual and official capacities.

14. Defendant Walton Scott is an adult citizen and resident of the City of Philadelphia with a business address at the City of Philadelphia Police Department with a principal and central office of business located at Police Headquarters, 8<sup>th</sup> and Race Streets, Philadelphia, Pennsylvania. Defendant Walton Scott was a City of Philadelphia Police Officer assigned to the 18<sup>th</sup> Police District on or about September 28, 2016. He is being sued in both his individual and official capacities.

15. Defendant Ronald Green is an adult citizen and resident of the City of Philadelphia with a business address at the City of Philadelphia Police Department with a principal and central office of business located at Police Headquarters, 8<sup>th</sup> and Race Streets, Philadelphia, Pennsylvania. Defendant Ronald Green, badge number 9489, was a City of Philadelphia Police Officer assigned to the 18<sup>th</sup> Police District on or about September 28, 2016. He is being sued in both his individual and official capacities.

16. Defendant Richard Edwards is an adult citizen and resident of the City of Philadelphia with a business address at the City of Philadelphia Police Department with a principal and central office of business located at Police Headquarters, 8<sup>th</sup> and Race Streets, Philadelphia, Pennsylvania. Defendant Richard Edwards, badge number 3173, was a City of Philadelphia Police Officer assigned to the 12<sup>th</sup> Police District on or about September 28, 2016. He is being sued in both his individual and official capacities.

17. Defendant Timothy Moebius is an adult citizen and resident of the City of Philadelphia with a business address at the City of Philadelphia Police Department with a principal and central office of business located at Police Headquarters, 8<sup>th</sup> and Race Streets, Philadelphia, Pennsylvania. Defendant Timothy Moebius was a City of Philadelphia Police Officer assigned to the 12<sup>th</sup> Police District on or about September 28, 2016. He is being sued in both his individual and official capacities.

#### IV. FACTS

18. On September 28, 2016, the nine Defendant police officers shot and killed Christopher Sowell while he was standing on the stoop of his aunt's house on Cobbs Creek Parkway in Philadelphia.

19. Earlier during the day of September 28, 2016, Sowell had experienced a mental breakdown and engaged in acts of violence against several people in his family and neighborhood.

20. Afterward, Christopher Sowell appears to have taken refuge in his aunt's house on Cobbs Creek Parkway.

21. At the time of his shooting, Christopher Sowell was unarmed and had nothing illegal in his possession.

22. At no time while standing on the stoop of his aunt's house did Christopher Sowell pose a threat to the Defendants or to others.

23. While standing on the stoop of his aunt's house, the nine Defendants intentionally or recklessly fired one hundred and nine (109) shots at Christopher Sowell.

24. Christopher Sowell was hit by numerous bullets, and he was mortally wounded.

25. The firing of the one hundred and nine (109) shots at Christopher Sowell was a blatant excessive use of force by the Defendants.

26. Defendants' firing of one hundred and nine (109) shots at Christopher Sowell was a violation of police policy and constituted extreme and outrageous conduct.

**V. CLAIMS**

**COUNT ONE**  
**State Law Claim Against All Defendants**  
**Wrongful Death**

27. The allegations set forth in the preceding paragraphs are incorporated herein by specific reference as if fully set forth.

28. Plaintiff Aleathia Duvall was appointed Administratrix of the Estate of Christopher Sowell by the Philadelphia County Register for the Probate of Wills and Grants of Letters Testamentary and of Administration on August 9, 2017, and brings this action under and pursuant to the Pennsylvania Wrongful Death Act, 42 Pa.C.S. § 8301, *et seq.*

29. Plaintiff Hyshonda Hinton is parent-guardian of A.U.H-S. and C.L.H.S., minor children. Hinton is asserting claims as parent-guardian on behalf of A.U.H-S. and C.L.H.S.

30. Plaintiffs further demand damages for all pecuniary losses, including the medical expenses, funeral expenses and expenses of administration necessitated by reason of the death of Christopher Sowell, and other expenses reasonably associated with Christopher Sowell's death.

31. As a result of the wrongful death of Christopher Sowell, his survivors have been deprived of the earnings, maintenance, guidance, support, companionship and comfort that they would have received from him for the reason of his natural life.

**WHEREFORE**, Plaintiffs Aleathia Duvall, individually and as Administratrix of the Estate of Christopher Sowell, and Hyshonda Hinton, as parent-guardian

of A.U.H.S. and C.L.H.S., demand judgment against Defendants Adrian Hustler; Anthony Britton, Jr.; Jeremy Olesik; Michael Kane, Jr.; Thomas Thompson; Walton Scott; Ronald Green; Richard Edwards; and Timothy Moebius, jointly and severally, for damages in a sum in excess of seventy-five thousand dollars (\$75,000), including compensatory damages and punitive damages, plus costs and interest, injunctive relief, such other relief as the Court deems reasonable and just.

**COUNT TWO**  
**State Law Claim Against All Defendants**  
**Survival Claim**

32. The allegations set forth in the preceding paragraphs are incorporated herein by specific reference as if fully set forth.

33. Plaintiff Aleathia Duvall brings this action pursuant to the Pennsylvania Survival Act, 20 Pa. C.S. § 3373, *et seq.*, on behalf of the Estate of Christopher Sowell.

34. Plaintiff Aleathia Duvall demands damages of Defendants for the physical and emotional pain and suffering experienced by Christopher Sowell prior to his death; Plaintiff Aleathia Duvall further demands damages for the loss of enjoyment of life and the economic losses sustained by the Estate of Christopher Sowell by reason of his untimely death.

35. The acts and omissions of the Defendants were the direct and proximate cause of the death of Christopher Sowell.

**WHEREFORE**, Plaintiffs Aleathia Duvall, individually and as Administratrix of the Estate of Christopher Sowell, and Hyshonda Hinton, as parent-guardian of

A.U.H-S. and C.L.H.S., demand judgment against Defendants Adrian Hustler; Anthony Britton, Jr.; Jeremy Olesik; Michael Kane, Jr.; Thomas Thompson; Walton Scott; Ronald Green; Richard Edwards; and Timothy Moebius, jointly and severally, for damages in a sum in excess of seventy-five thousand dollars (\$75,000), including compensatory damages and punitive damages, plus costs and interest, injunctive relief, such other relief as the Court deems reasonable and just.

**COUNT THREE**  
**42 U.S.C. § 1983 Against All Defendants**  
**Excessive Use of Force**

36. The allegations set forth in the preceding paragraphs are incorporated herein by specific reference as if fully set forth.

37. Christopher Sowell was shot to death as set forth above in violation of 42 U.S.C. Section 1983 by Defendants, in that they, as described in detail in preceding paragraphs, violated Christopher Sowell's constitutional rights while acting under color of law.

38. More specifically, Defendants intentionally shot Christopher Sowell and Defendants' actions were the actual and proximate cause of Christopher Sowell's death.

39. The firing of the one hundred and nine (109) shots by the nine Defendants at Christopher Sowell was a blatant excessive use of force by the Defendants.

40. Defendants' firing of one hundred and nine (109) shots at Christopher Sowell was a violation of police policy and constituted extreme and

outrageous conduct.

**WHEREFORE**, Plaintiffs Aleathia Duvall, individually and as Administratrix of the Estate of Christopher Sowell, and Hyshonda Hinton, as parent-guardian of A.U.H-S. and C.L.H.S., demand judgment against Defendants Adrian Hustler; Anthony Britton, Jr.; Jeremy Olesik; Michael Kane, Jr.; Thomas Thompson; Walton Scott; Ronald Green; Richard Edwards; and Timothy Moebius, jointly and severally, for damages, including compensatory damages and punitive damages, plus interest, injunctive relief, such other relief as the Court deems reasonable and just, as well as reasonable attorney fees and costs under 42 U.S.C. §1988.

**COUNT FOUR**  
**42 U.S.C. § 1983 Against All Defendants**  
**Assault**

41. The allegations set forth in the preceding paragraphs are incorporated herein by specific reference as if fully set forth.

42. As described above, Defendants battered Christopher Sowell by firing 109 shots at him.

43. Christopher Sowell was shot to death as set forth above in violation of 42 U.S.C. Section 1983 by Defendants, in that they, as described in detail in preceding paragraphs, violated Christopher Sowell's constitutional rights while acting under color of law.

44. More specifically, Defendants intentionally placed Christopher Sowell in reasonable apprehension of imminent harmful and/or offensive bodily contact, and Defendants' actions were the actual and proximate cause of Christopher Sowell's death.

**WHEREFORE**, Plaintiffs Aleathia Duvall, individually and as Administratrix of the Estate of Christopher Sowell, and Hyshonda Hinton, as parent-guardian of A.U.H-S. and C.L.H.S., demand judgment against Defendants Adrian Hustler; Anthony Britton, Jr.; Jeremy Olesik; Michael Kane, Jr.; Thomas Thompson; Walton Scott; Ronald Green; Richard Edwards; and Timothy Moebius, jointly and severally, for damages, including compensatory damages and punitive damages, plus interest, injunctive relief, such other relief as the Court deems reasonable and just, as well as reasonable attorney fees and costs under 42 U.S.C. §1988.

**COUNT FIVE**  
**State Law Claim Against All Defendants**  
**Assault**

45. The allegations set forth in the preceding paragraphs are incorporated herein by specific reference as if fully set forth.

46. As described above, Defendants assaulted Christopher Sowell by firing 109 shots at him.

47. Defendants committed an assault against Plaintiff. See Pa. Suggested Jury Charge 13.01 (Civ.).

48. Christopher Sowell was killed as a result of being assaulted by Defendants.

49. The Defendants' assault was a factual cause of the death of Christopher Sowell.

**WHEREFORE**, Plaintiffs Aleathia Duvall, individually and as Administratrix of the Estate of Christopher Sowell, and Hyshonda Hinton, as parent-guardian of A.U.H-S. and C.L.H.S., demand judgment against Defendants Adrian Hustler;

Anthony Britton, Jr.; Jeremy Olesik; Michael Kane, Jr.; Thomas Thompson; Walton Scott; Ronald Green; Richard Edwards; and Timothy Moebius, jointly and severally, for damages in a sum in excess of seventy-five thousand dollars (\$75,000), including compensatory damages and punitive damages, plus costs and interest, injunctive relief, such other relief as the Court deems reasonable and just.

**COUNT SIX**  
**42 U.S.C. § 1983 Against All Defendants**  
**Battery**

50. The allegations set forth in the preceding paragraphs are incorporated herein by specific reference as if fully set forth.

51. As described above, Defendants battered Christopher Sowell by firing 109 shots at him.

52. Defendants committed a battery against Plaintiff. See Pa. Suggested Jury Charge 13.02 (Civ.).

53. Christopher Sowell was killed as a result of being assaulted by Defendants.

54. The Defendants' battery was a factual cause of the death of Christopher Sowell.

55. Christopher Sowell was shot to death as set forth above in violation of 42 U.S.C. Section 1983 by Defendants, in that they, as described in detail in preceding paragraphs, violated Christopher Sowell's constitutional rights while acting under color of law.

56. More specifically, Defendants intentionally placed Christopher

Sowell in reasonable apprehension of imminent harmful and/or offensive bodily contact, and Defendants' actions were the actual and proximate cause of Christopher Sowell's death.

**WHEREFORE**, Plaintiffs Aleathia Duvall, individually and as Administratrix of the Estate of Christopher Sowell, and Hyshonda Hinton, as parent-guardian of A.U.H-S. and C.L.H.S., demand judgment against Defendants Adrian Hustler; Anthony Britton, Jr.; Jeremy Olesik; Michael Kane, Jr.; Thomas Thompson; Walton Scott; Ronald Green; Richard Edwards; and Timothy Moebius, jointly and severally, for damages, including compensatory damages and punitive damages, plus interest, injunctive relief, such other relief as the Court deems reasonable and just, as well as reasonable attorney fees and costs under 42 U.S.C. §1988.

**COUNT SEVEN**  
**State Law Claim Against All Defendants**  
**Battery**

57. The allegations set forth in the preceding paragraphs are incorporated herein by specific reference as if fully set forth.

58. As described above, Defendants battered Christopher Sowell by firing 109 shots at him.

59. Defendants committed a battery against Plaintiff. See Pa. Suggested Jury Charge 13.02 (Civ.).

60. Christopher Sowell was killed as a result of being assaulted by Defendants.

61. The Defendants' battery was a factual cause of the death of Christopher Sowell.

**WHEREFORE**, Plaintiffs Aleathia Duvall, individually and as Administratrix of the Estate of Christopher Sowell, and Hyshonda Hinton, as parent-guardian of A.U.H-S. and C.L.H.S., demand judgment against Defendants Adrian Hustler; Anthony Britton, Jr.; Jeremy Olesik; Michael Kane, Jr.; Thomas Thompson; Walton Scott; Ronald Green; Richard Edwards; and Timothy Moebius, jointly and severally, for damages in a sum in excess of seventy-five thousand dollars (\$75,000), including compensatory damages and punitive damages, plus costs and interest, injunctive relief, such other relief as the Court deems reasonable and just.

**COUNT EIGHT**  
**State Law Claim Against All Defendants**  
**Intentional Infliction of Emotional Distress**

62. The allegations set forth in the preceding paragraphs are incorporated herein by specific reference as if fully set forth.

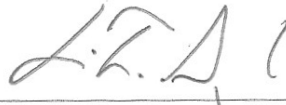
63. Defendants' killing of Christopher Sowell by firing 109 shots at him constituted extreme and outrageous conduct.

64. Christopher Sowell was mortally injured as a result of the shootings by the Defendants.

65. Defendants' excessive firing of 109 shots at Christopher Sowell left his body riddled with bullets.

66. As a direct and proximate result of the Defendants' conduct, Plaintiffs suffered from pain, suffering, agony, anxiety, mental anguish, and extreme emotional distress.

**WHEREFORE**, Plaintiffs Aleathia Duvall, individually and as Administratrix of the Estate of Christopher Sowell, and Hyshonda Hinton, as parent-guardian of A.U.H-S. and C.L.H.S., demand judgment against Defendants Adrian Hustler; Anthony Britton, Jr.; Jeremy Olesik; Michael Kane, Jr.; Thomas Thompson; Walton Scott; Ronald Green; Richard Edwards; and Timothy Moebius, jointly and severally, for damages in a sum in excess of seventy-five thousand dollars (\$75,000), including compensatory damages and punitive damages, plus costs and interest, injunctive relief, such other relief as the Court deems reasonable and just.



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**Counsel for Plaintiffs**

**JURY DEMAND**

Plaintiffs hereby demand a jury trial as to each Defendant and as to each count.



Eric F. Spade

**CERTIFICATE OF SERVICE**

I, Eric F. Spade, Esquire, hereby certify that on August 9, 2018, I caused a true and correct copy of the foregoing Amended Complaint to be served via the Court's electronic filing system upon the following:

Aaron Shotland, Esquire  
Deputy City Solicitor  
City of Philadelphia Law Department  
1515 Arch Street, 14<sup>th</sup> Floor  
Philadelphia, PA 19102  
**Counsel for the Defendants**

  
Eric F. Spade